

**REMARKS/ARGUMENTS**

The Examiner's attention to the present application is noted with appreciation.

In paragraphs 4 and 5 of the Office Action dated March 10, 2004, the Examiner rejected claims 1-6, 8-15, and 18-20 under 35 U.S.C. §101 stating that the claimed invention is directed to non-statutory matter. Such rejection is respectfully traversed, particularly as to the claims as amended.

Applicant's invention is a state-of-the-art technique or methodology for providing a more efficient and effective gathering of data based on displaying viewer reactions to elements of a display object and visually displaying viewer responses as a divided display object with at least one characteristic based on those reactions, using a computer or other processor. The resultant display object, divided into spatial regions having at least one characteristic, allows the decision makers to evaluate the information. The technological advance is in the ability to efficiently collect information from the viewer responses to the elements of a display object and present that information in a highly usable form, in order for decision makers to evaluate the display object. Without the method and apparatus of the present invention it would be very difficult if not impossible to collect these viewer responses in such detail and easily evaluate the information based on viewer's memory; thus the present invention is novel, unique and a technological advance. We wish to note that Applicant, dba Ameritest, has won the prestigious Grand Ogilvy Research Award numerous times and is published in the Journal of Advertising Research (please see attached Journal of Advertising Research Article, and press release citing the Ogilvy Award). Further, Applicant has received millions of dollars in revenue for use of its methods. These are only a few testaments to the advance in technological arts achieved by Applicant's invention.

In paragraphs 6, 7 and 8 of the Office Action, the Examiner rejected claims 1, 10, 11, and 20 under 35 U.S.C. §112 for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims have been amended to more clearly describe the method and apparatus of the present invention. Therefore, these rejections are respectfully traversed.

In paragraphs 9 and 10 of the Office Action, the Examiner rejected claims 1-6, 8-15 and 18-20 under 35 U.S.C. §103(a) as being unpatentable over Buxton et al. (U.S. Patent No. 6,118,427). Such rejections are traversed, particularly as to the claims as amended. The prior claims have been canceled and new claims 21 through 57 have been added to describe the invention. Concerning claims 21 through

39, the method claims, Applicant's invention is directed to a method for displaying an display object, collecting viewer reactions to elements of the display object, correlating these reactions to spatial regions of the display object, dividing the display of the display object into these spatial regions, and modifying at least one characteristic, for example color or transparency, of each region based on the viewers' reactions, for the purposes of a decision maker's evaluation of the display object.

Concerning claims 40 through 57, the apparatus claims, Applicant's invention is directed to an apparatus for measuring viewer response to a display object which comprises a display for displaying an undivided display object, a data collector for receiving responses regarding the elements of the display object after the viewers have viewed the display object, a processor for correlating the responses to a plurality of spatial regions of the display object and assigning at least one characteristic to each spatial region based on the responses, and a display for displaying to decision makers the display object divided into the spatial regions having the assigned characteristic.

The purpose of Buxton et al. is for the viewer to evaluate a grid and/or icons which are superimposed on an object in order to determine the preference of the viewer for a given grid characteristic or icon. That is, Buxton et al.'s purpose is to evaluate the *combination* of an overlay and an object. In contrast, the purpose of the present invention is for decision makers to evaluate the display object by displaying it to viewers *without* any grid or overlay. The grid is strictly for the purpose of displaying the viewer responses to decision makers in an intuitive manner. The display object will not be divided into spatial regions when it is eventually viewed by the public; thus it is important that the viewers of the present invention do not view the divided display object. Similarly, the purpose of the present invention is not for the decision makers to evaluate the *divided* display object; rather, it is for them to evaluate the success of the original, undivided display object at eliciting desired effects in the viewer. The characteristics of the different spatial regions of the display object are used by the decision makers as a tool for the evaluation.

Further, the device of Buxton et al. is designed so that the viewer, who is responding to the grid, icons, and shadings, makes real-time decisions based on which icon, part of the grid, or shading is most user-friendly for the user interface. Thus in Buxton et al. it is essential to the device that the viewer views the grids, icons, and/or shadings. However, as recited in the amended claims of the present invention,

viewer responses or reactions are not recorded until *after* the display object, without any grids, is displayed to the viewers. Thus the viewer responses are based on each viewer's memory of the undivided display object. Therefore, Buxton et al. teach away from the viewing of an undivided display object, as well as eliciting viewer responses after having viewed the display object. The present claims, as amended, are therefore patentable over Buxton et al.

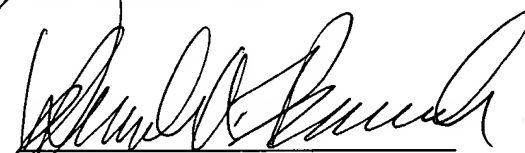
In view of the above amendments and remarks, it is respectfully submitted that all grounds of rejection and objection have been avoided and/or traversed. It is believed that the case is now in condition for allowance and same is respectfully requested.

If any issues remain, or if the Examiner believes that prosecution of this application might be expedited by discussion of the issues, the Examiner is cordially invited to telephone the undersigned attorney for Applicant at the telephone number listed below.

A check for additional claim fees is attached. Also being filed herewith is a Petition for Extension of Time to July 12, 2004, which is the first business day after July 10, 2004, with the appropriate fee. Authorization is given to charge payment of any additional fees required, or credit any overpayment, to Deposit Acct. 13-4213. A duplicate of this paper is enclosed for accounting purposes.

Respectfully submitted,

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